

**CERTIFICATION OF EMERGENCY RULES
FILED WITH LEGISLATIVE REFERENCE SERVICE
JERRY L. BASSETT, DIRECTOR**

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c) (2)a. and b.

I certify that the attached emergency rule is a correct copy as promulgated and adopted on the 9th day of May, 2014.

AGENCY NAME: Secretary of State

RULE NO. AND TITLE: 820-2-2-.13-.01ER Procedures for Voters Who Have Moved from Address in Area Covered by One Precinct or Polling Place to Address Covered by Second Precinct or Polling Place within Same Board of Registrars' Jurisdiction and Have Not Updated Voter Registration Record Prior to an Election.

EFFECTIVE DATE OF RULE: May 9, 2014

EXPIRATION DATE (If less than 120 days): _____

NATURE OF EMERGENCY: This emergency rule is necessary to ensure compliance with *Davis v. Bennett* (Ala. Ms. Op. April 18, 2014) and to ensure that Alabama voters cast ballots at their legal polling place in the June 3, 2014 Primary and subsequent elections.

STATUTORY AUTHORITY: Code of Alabama, sections 7-4-63 (2007), 17-6-5 (2007), 17-9-10 (2007), and 17-10-3 (2007).

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS ☒ YES ☐ NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

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State Capitol
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REC'D & FILED

MAY 09 2014

LEGISLATIVE REFERENCE SERVICE

Jim Bennett
Signature of officer authorized
to promulgate and adopt rules and
regulations or his or her deputy

FILING DATE
(For APA Use Only)

STATE OF ALABAMA
OFFICE OF THE SECRETARY OF STATE
ELECTIONS DIVISION
ADMINISTRATIVE CODE

820-2-2-.13-.01ER Procedures for Voters Who Have Moved
From Address in Area Covered by One
Precinct or Polling Place to Address
Covered by Second Precinct or Polling
Place within Same Board of Registrars'
Jurisdiction and Have Not Updated Voter
Registration Record Prior to an
Election.

- 1) A voter who has changed his or her domicile from an address in the area covered by one precinct or polling place to an address covered by a second precinct or polling place within the same Board of Registrars' jurisdiction and who has failed to notify the Board of Registrars of the change of address prior to the date of an election shall not be allowed to cast a ballot at the former polling place. In such cases the poll workers shall obtain the voter's new precinct or polling place information from either the Board of Registrars or the Judge of Probate and instruct the voter to go to the new precinct or polling place to vote.
 - a. Because in such instances the voter's name will not appear on the poll list at the new precinct or polling place, an inspector at the new polling place shall notify the voter that he or she may cast a provisional ballot in the election.
 - b. If the inspector has knowledge and belief that a voter has changed his or her domicile but the voter refutes the inspector's allegation and asserts that he or she is eligible to vote at the polling place where he or she has presented himself or herself to vote, the inspector shall require the voter to cast a provisional ballot based on the inspector's knowledge that the voter is not qualified to vote in the precinct in which he or she is seeking to vote. The inspector shall

complete a challenge statement setting forth the facts which the inspector believes to support his or her contention that the voter is not qualified to vote in the precinct in which he or she is seeking to vote.

c. Any provisional ballot issued pursuant to this rule shall be governed by the procedures set forth in Section 17-10-2, Code of Alabama, and Chapter 820-2-6, Alabama Administrative Code.

d. The voter shall cast the provisional ballot and place it into a sealed ballot box separately identified and utilized for containing provisional ballots.

2) For absentee ballot applicants required to reidentify because they do not appear in the new voting place for which they seek to vote but do appear within the state voter registration list in another voting place at a former address covered by a second precinct or polling place within the same Board of Registrars' jurisdiction, the absentee election manager shall provide to the voter a provisional ballot along with a voter reidentification form in accordance with Code of Alabama 1975, sections 17-11-9 and 17-10-2.

a. The term "Provisional" shall be marked on the second or affidavit envelope prior to transmitting the ballot to the voter.

b. The absentee election manager shall provide as a provisional ballot the ballot style for the new voting place in which the applicant is seeking to vote. In such cases the absentee election manager shall obtain the applicant's ballot style for the new voting place from either the Board of Registrars or the Judge of Probate.

c. Any provisional ballot issued pursuant to this rule shall be governed by the procedures set forth in Section 17-10-2, Code of Alabama, and Chapter 820-2-6, Alabama Administrative Code.

Authors: Edward Packard, Jean Brown, William Sutton.

Statutory Authority: Code of Ala. 1975, sections 7-4-63 (2007), 17-6-5 (2007), 17-9-10 (2007), and 17-10-3 (2007).
History: New Rule: Filed May 9, 2014.